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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/051,412	01/17/2002	Uwe Joerg Ries	5/1313	9079		
28505 7	590 11/24/2004		EXAM	EXAMINER		
BOEHRINGER INGELHEIM CORPORATION ANDERSON, REBI			REBECCA L			
900 RIDGEBU P. O. BOX 368			ART UNIT	PAPER NUMBER		
RIDGEFIELD			1626			

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action		Application No.	Applicant(s)				
		10/051,412	RIES ET AL.				
		Examiner	Art Unit				
		Rebecca L Anderson	1626				
The MAILING DATE	of this communication appe	ears on the cover sheet with the c	correspondence add	ress			
THE REPLY FILED 11 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.							
	PERIOD FOR RE	EPLY [check either a) or b)]					
a) The period for reply expires 6 months from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
1. A Notice of Appeal was filed on <u>11 November 2004</u> . Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.							
2. The proposed amendment(s) will not be entered because:							
(a) 🛛 they raise new issu	ies that would require furth	er consideration and/or search ((see NOTE below);				
(b) they raise the issue	e of new matter (see Note	below);		•			
(c) Ithey are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or							
(d) They present additional claims without canceling a corresponding number of finally rejected claims.							
NOTE: See Contin	uation Sheet.						
3. Applicant's reply has over	rercome the following reject	ction(s):					
4. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).							
	l exhibit, or c)⊠ request fo for allowance because: <u>Se</u>	or reconsideration has been cons see Continuation Sheet.	sidered but does NO	OT place the			
6. The affidavit or exhibit varied by the Examiner		cause it is not directed SOLELY	to issues which we	re newly			
	For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.						
The status of the claim((s) is (or will be) as follows:	*	•				
Claim(s) allowed:	_•	·					
Claim(s) objected to: _							
Claim(s) rejected:	Claim(s) rejected:						
Claim(s) withdrawn from	m consideration:						
• •		proved or b) disapproved by	the Examiner.				
9. Note the attached Inform	nation Disclosure Stateme	ent(s)(PTO-1449) Paper No(s)	·				
10. Other:							

JOSEPH K. MCKANE SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600_{Part of Paper No. 111804}

Advisory Action

Application No.

Continuation Sheet (PTOL-303) 110/051,412

Continuation of 2. NOTE: Since claim 4 is now within the elected invention, it would require further consideration as to the 35 USC 103(a) rejection of the office action of 13 May 2004.

Continuation of 5. does NOT place the application in condition for allowance because: The application still contains withdrawn claim 8 which is not rejoined since the product claims are still not allowable. Applicant argues that the 35 USC 103(a) rejection of the office aciton of 13 May 2004 does not render obvious applicants instant claims 1-3 and 5-7. However, as stated in the previous office action, WO 00/71512 generically encompasses applicants instantly claimed invention and provides preferences and motivaiton to prepare applicants instantly claimed compounds and therefore the 35 USC 103(a) rejection is maintained.